

Councils of Governments Method of Distribution Guidelines Round 2.2

*The procedures for completing the State of Texas Plan for Disaster Recovery Council of Governments (COG) Method of Distribution Form are included in these guidelines. The Round 2, Phase 2 (Round 2.2) COG method of distribution is applicable to the Deep East Texas Council of Governments (DETCOG), South East Texas Regional Planning Commission (SETRPC), Houston Galveston Area Council (H-GAC), and the Lower Rio Grande Valley Development Council (LRGVDC) for both housing and non-housing activities. **Any regionally allocated funds not fully obligated by the COG and funds from projects that have been allocated but are later disqualified or reduced in scope or pricing shall be returned to the State for reallocation at the State's discretion.***

Please contact Gary L. Smith, the Texas General Land Office Disaster Recovery Division Method of Distribution contact at gsmith@hntb.com for clarification regarding these guidelines. (9/26/11)

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Definitions & Acronyms

The terms in this document are defined as follows:

- “[Amendment 1](#)” refers to State of Texas Plan for Disaster Recovery – Amendment No. 1
- “[CA](#)” refers to Conciliation Agreement
- “[COG](#)” refers to Councils of Governments
- “[DETCOG](#)” refers to Deep East Texas Council of Governments
- “[DREF](#)” refers to Disaster Recovery Enhancement Fund
- “[FHA Form](#)” refers to Fair Housing Activity Statement – Texas Form
- “[GLO or the Land Office](#)” refers to Texas General Land Office
- “[H-GAC](#)” refers to Houston Galveston Area Council
- “[HOP](#)” refers to Homeowner Opportunity Program
- “[HUD](#)” refers to U.S. Department of Housing and Urban Development
- “[IMM](#)” refers to individual mitigation measures
- “[LMI](#)” refers to Low to Moderate Income
- “[LRGVDC](#)” refers to Lower Rio Grande Valley Development Council
- “[MOD](#)” refers to regional methods of distribution
- “[Participation Plan](#)” refers to Citizen Participation Plan
- “[PDF](#)” refers to Adobe Portable Document File format
- “[Round 2.1](#)” refers to Round 2, Phase 1
- “[Round 2.2](#)” refers to Round 2, Phase 2
- “[SETRPC](#)” refers to South East Texas Regional Planning Commission
- “[Partial AI](#)” refers to Analysis of Impediments to Fair Housing – Phase 1: Hurricane Impacted Communities

Background

Regional methods of distribution (MODs) were developed in a two-phase process for Round 2 funds as a result of the State of Texas Plan for Disaster Recovery – Amendment No. 1 (Amendment 1) and Conciliation Agreement (CA). Round 2, Phase 1 (Round 2.1) was not a typical MOD, but a partial MOD limited to locally-identified priority projects that were of compelling need to move forward immediately and that were consistent with obligations to affirmatively further fair housing. The Round 2.2 MOD shall now cover the remainder of the Round 2 allocation to the COGs, as outlined in Amendment 1.

Conciliation Agreement

The COGs should consider the parameters of Amendment 1 and the requirements of the CA as they relate to individual programs. COGs shall develop MODs that address the impediments identified in the Analysis of Impediments to Fair Housing – Phase 1: Hurricane Impacted Communities (Partial AI) approved by the U.S. Department of Housing and Urban Development (HUD) in May 2011.

COGs and their respective members should be aware that projects and programs for both housing and non-housing activities will be subject to detailed review by the Texas General Land Office (GLO or the Land Office) to assure they are consistent with program eligibility, the CA, HUD’s current fair housing guidance, the Partial AI, and the State’s and communities’ obligations to affirmatively further fair housing.

Disaster Recovery Enhancement Fund

The COGs also must consider obligations necessary to comply with the Disaster Recovery Enhancement Fund (DREF) program set-aside requirements as outlined in Amendment 1. The State of Texas received an allocation of \$55,481,416 in DREF through HUD based on qualifying DREF projects identified in Round 1 and pledged in Round 2. In order for the State to retain the allocation of these DREF funds, however, the regions must maintain the level of DREF eligible projects submitted in Round 1 and allocate funds for qualifying DREF projects from Round 2 funds to the extent necessary to comply with a combined match commitment.

DREF eligible projects include:

1. The development and adoption of a forward-thinking land-use plan, including development and adoption of updated Flood Insurance Rate Maps, that will guide long-term recovery efforts and subsequent land-use decisions throughout the community and that reduces existing or future development in disaster-risk areas;
2. Projects that result in the removal of homes from the 100-year floodplain through project design (such as drainage improvements) to reduce the number of projects requiring base flood elevations and/or including floodplain or critical fire or seismic hazard area buyout programs under an optional relocation plan (including buyouts converting to greenspace in the floodplain);
3. Individual mitigation measures (IMM) to improve residential properties and make them less prone to damage. If such activities are incorporated into the grantee’s rehabilitation or new construction programs, generally the cost increment attributed to IMM will be the amount considered for the additional allocation, not the total construction amount budget; or

4. Implementation of modern disaster resistant building codes, including, but not limited to, training on new standards and code enforcement.

DREF eligible allocations must be identified in the MODs at or above the amount identified for each COG in this guidance, as outlined in Table 1 below.

Table 1: DREF Obligations Required for Round 2

Region	Round 1 DREF Commitments	Round 2 DREF Obligations Required	DREF 2.1 Estimated Commitments ¹	Total DREF Obligations Required: Combined Round 1 and Round 2 ²	Round 2.2 DREF Remaining Obligations Required ³
HGAC	\$ 40,219,669.00	\$ 52,000,000.00	\$ 8,784,356.80	\$ 92,219,669.00	\$ 43,215,643.20
SETRPC	\$ 8,012,276.00	\$ 16,000,000.00	\$ 15,415,148.80	\$ 24,012,276.00	\$ 584,851.20
LRGVDC	\$ 45,069,050.00	\$ 10,000,000.00	\$ 47,058,144.80	\$ 55,069,050.00	\$ -
DETCOG	\$ 2,003,069.00	\$ -	\$ 635,280.00	\$ 2,003,069.00	\$ -
Pool	\$ -	\$ -	\$ 2,504,519.20	\$ 2,504,519.20	\$ -
Total	\$ 95,304,064.00	\$ 78,000,000.00	\$ 74,397,449.60	\$ 173,304,064.00	\$ 43,800,494.40

¹ Based on awards from Round 2.1.

² All COGs must meet their combined Round 1 and Round 2 obligation for DREF. If previously funded projects, from any Round, are reduced in scope or changed to non-qualifying activities, then subsequent DREF-qualifying projects must make up the difference.

³ All COGs must individually meet their obligation for DREF, even if other regions exceed their commitments.

The Rapid Housing Recovery Pilot Program

The Rapid Housing Recovery Pilot Program must also be taken into consideration by H-GAC and LRGVDC in the development of their MODs. The legislatively-created Natural Disaster Housing Reconstruction Advisory Committee developed recommendations on rapid, efficient, large-scale production of temporary and permanent housing following natural disasters. Harris County, Galveston County, and LRGVDC each receive a \$2 million required set-aside for pilot programs to implement these recommendations. Any funding used from these set-asides must contribute to the replacement of at least 20 homes in each area. These homes may be similar to other models designed for Round 2 housing. The recommendations and pilot program are not meant to delay or otherwise interfere with ongoing reconstruction efforts.

The Citizen Participation Plan

COGs must submit the Participation Plan by **October 1, 2011** to the delivery address listed under this section. The Participation Plan must be submitted in the form provided under this guidance. COG board action and executive director signature is not necessary. The Participation Plan must include the following:

Outreach

The Participation Plan must include a description of efforts to reach out to local governments, housing advocacy organizations, other community groups, and faith-based organizations. The COG must make efforts to bring non-elected members of the community into discussions regarding the MOD. For example, the COG could work with places of worship, schools and other places where large groups of citizens gather. The COG may also utilize radio and television public service announcements.

The COG must contact and work with organizations representing protected classes of individuals,¹ as well as organizations interested in fair housing issues, in order to gain additional perspective on fair housing and civil rights issues in the region. This exercise should also help the COG understand how the people they represent were affected by Hurricanes Dolly and/or Ike. Approaches beyond simple written notification of public hearings are encouraged. For example, the COG could host a separate meeting with housing advocacy groups active in the region or visit local offices of civil rights groups like League of United Latin American Citizens (LULAC), Mexican American Legal Defense and Educational Fund (MALDEF) and the National Association for the Advancement of Colored People (NAACP). The COG could also pursue personal outreach by calling groups individually.

The COG must reach out to non-English speaking residents and the organizations that serve them. As appropriate, the COG should publish hearing notices in Spanish and/or Vietnamese in newspapers published in those languages. The attached hearing notice template provides an example. The Land Office encourages the COGs to pursue additional efforts to reach out to the public. The Land Office must be sent information regarding additional meetings, hearings and workshops and other requests for public comment contributing toward the development of the MOD.

Notice and Public Comment

The COG must identify a schedule for public hearings and notices in the Participation Plan, including those required for completion of the mandatory Fair Housing Activity Statement – Texas Form (“FHA Form”). Notice of the hearing schedule(s) must be posted, according to the instructions below, in a newspaper, on the COG’s website, and with the Secretary of State. At least one hearing must take place while the draft MOD is available for public comment. The meetings must be at a time and place convenient to the public.

Accessibility

The COG must identify how it will accommodate the needs of any person with a disability, including holding all meetings in accessible facilities and making reasonable accommodations.

¹ People of various races, color, religion, national origin, sex, age, and people with disabilities.

Participation Plan Instructions

1. List the date the draft MOD will be posted and made available to the public and the date the public comment period ends. In addition, a hard copy must be made available for public inspection. **This period must be at least 15 days.**
2. List the date and location for each of the two required hearings.
3. Include all content listed in the template provided with these Guidelines in all hearing notifications.
4. In order to timely post on the Land Office Website, the Land Office must receive **all hearing** notices at least five (5) days in advance of the hearing date via email to Gary L. Smith at gsmith@hntb.com.
5. Personal Notice – identify the methods used to provide personal notice, which must be sent at least five (5) days prior to the public hearing. COGs may use any or all methods listed, but must include the following documentation for each type:
 - a. Electronic Mail – attach list of recipients receiving notification in this manner, as well as copies of the emails.
 - b. Fax – attach list of recipients receiving notification in this manner, as well as a copies of the letters.
 - c. Hand Delivery – attach list of recipients receiving notification in this manner, as well as copies of the letters and a signature sheet signed by the person receiving notice.
 - d. Mail – attach list of recipients receiving notification in this manner, as well as copies of the letter and recipient address.
6. Website and SOS – notice on the COG’s website and notice on the Secretary of State website must take place at least five (5) days prior to the hearing. Appropriate documentation includes an attached printed copy of the hearing notice on the website.
7. Newspaper – ensure that the notice of the public hearing be published in at least one (1) regional newspaper (or general circulation) three (3) or more days in advance of the hearing. Appropriate documentation includes an attached copy of the hearing notice and a publisher’s affidavit, or a full-page of the publication that includes the notice, date of the publication, and the publication name.
8. Describe the efforts to be used to notify and accommodate those individuals with modified communication needs, such as non-English speaking citizens or those with hearing disabilities.
9. The methods to be used to contact the organizations representing protected classes of individuals and the issues identified by those discussions must be discussed.

The complete regional MOD

COGs must submit the complete regional MOD no later than **November 11, 2011**. COG board action and executive director signature is necessary.

Fair Housing

While compliance with this obligation is ultimately the responsibility of the State of Texas and the individual grantees, the COG must indicate how it has considered the Partial AI and Needs Assessment data in its housing and non-housing MODs. This should be consistent with findings from documented research discussed in long-range planning and feedback from housing and civil rights organizations.

The COG must submit a completed FFAST Form with the MOD. The FFAST Form is intended to be a process conducted by a locally-appointed FFAST Work Group, resulting in a locally-defined Fair Housing Action Plan. The COG is reminded that certain citizen participation requirements, including posting and public meeting requirements, must be taken into consideration before FFAST Form submittal. The form and detailed guide may be found on the Land Office website. Public meetings for FFAST Form development may be held in conjunction with the first MOD public hearing.

Long-Term Planning and Recovery

The COG shall provide an explanation of how the region's MOD fosters long-term community recovery that is forward-looking and focused on permanent restoration of infrastructure, housing, and the local economy. Additional documentation such as planning documents considered, reports reviewed and other references used must be attached. If the document is available on the Internet, the COG should provide a link. For example, the COG may use locally adopted comprehensive plans and hazard mitigation plans from cities and counties included in its area to establish funding priorities in the MOD. Likewise, the COG may use plans developed following the disaster, such as the ESF-14 recovery plans and similar efforts.

Needs Assessment

The COG shall perform a Needs Assessment to determine the disaster related housing need within their jurisdictions, particularly as they relate to the HOP. The Federal Emergency Management Agency (FEMA), HUD, ASC/Census, and actual awards data are provided by the Land Office and should be used for determining awards and setting funding patterns.

MOD between Housing and Non-Housing Activities

Amendment 1 identifies the regional funding splits between housing and non-housing activities. Table 2 summarizes the allocations for each region for Round 2. The MOD must comply with required set asides identified in Tables 2 and 3 below.

Citizen Participation Plan Documentation

The COG must provide a copy of a sign-in sheet from each public hearing in the MOD submittal. In addition, the COG must provide a summary of the citizen comments and meeting discussions. This can be a summary document, draft minutes of the meeting, or official signed minutes from the meeting. The summary should include who made the comment and the content.

Table 2: Round 2 Regional Allocations

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	Housing Allocations ⁴							Non-Housing Allocations				Combined Housing & Non-Housing Allocations
Regions	Round 2 Housing Allocations	General Housing	Rapid Housing Recovery Pilot Program ¹	Subsidized Housing ²	Affordable Rental Program Set-aside ³	Round 2.1 Funds Obligated	Round 2.2 Housing Allocation Available	Round 2 Non-Housing Allocations	Round 2.1 Funds Obligated	Round 2.2 DREF Remaining Obligations (Mandatory Set-aside within Allocation Available)	Round 2.2 Non-Housing Allocation Available	Total Round 2.2 Allocation Available
H-GAC	\$647,356,639	\$427,261,621	\$4,000,000	\$90,000,000	\$126,095,018	\$0	\$647,356,639	\$384,970,743	\$62,902,899	\$43,215,643	\$322,067,844	\$969,424,483
SETRPC	\$190,104,113	\$147,007,878	-	\$10,000,000	\$33,096,235	\$0	\$190,104,113	\$127,387,946	\$47,287,915	\$584,851	\$80,100,031	\$270,204,144
LRGVDC	\$122,034,387	\$104,925,787	\$2,000,000		\$15,108,600	\$0	\$122,034,387	\$63,481,528	\$58,822,681	-	\$4,658,847	\$126,693,234
DETCOG	\$20,000,000	\$20,000,000	-		-	\$0	\$20,000,000	\$74,780,284	\$6,140,169	-	\$68,640,115	\$88,640,115
POOL	-	-			-	-		\$19,872,998	\$6,234,770	-	\$13,638,228	\$13,638,228
TOTAL	\$979,495,139	\$699,195,286	\$6,000,000	\$100,000,000	\$174,299,853		\$979,495,139	\$670,493,499	\$181,388,434	\$43,800,494	\$489,105,065	\$1,468,600,204

1 The Pilot Program allocates \$2 million each to Harris County, Galveston County and LRGVDC.

2 H-GAC and SETRPC have required set-aside allocation amounts that must be made in Harris and Galveston Counties for \$90 million and Orange County for \$10 million for the Subsidized Housing Rebuilding Program.

3 Details of Affordable Rental Set-aside Requirements are found in Table 3

4 \$500,000 of administrative funding will be used for the Texas Title Clearance & Legal Assistance Program

Table 3: Affordable Rental Program Set-aside Detail

Table 3: Affordable Rental Breakdown for 2.2						
COG	Round 2 Allocation	% Allocation	Single Family	Galveston PHU	Other PHU	Other Affordable Rental
SETRPC	\$ 33,096,235	19%	\$ 7,595,241		\$ 4,747,026	\$ 20,753,968
H-GAC	\$126,095,018	72%	\$ 28,937,493	\$ 50,000,000	\$ 18,085,933	\$ 29,071,592
LRGVDC	\$ 15,108,600	9%	\$ 3,467,266		\$ 2,167,041	\$ 9,474,293
DETCOG	\$ -	0%			\$ -	
POOL	\$ -	0%			\$ -	
					\$ 25,000,000	\$ 59,299,853
	\$174,299,853		\$ 40,000,000	\$ 50,000,000		\$ 84,299,853

MOD Detail

In providing its non-housing and housing MOD detail, COGs must meet the following requirements:

1. Housing programs must be developed in compliance with the Round 2 Housing Guidelines.
2. The COG must use a direct allocation technique based on objective, verifiable data to distribute non-housing funds.
 - a. For non-housing, for example, a COG may wish to consider economic and financial impact on entities in distributing the funds. An objective, verifiable means to do so might use the difference between total assessed property value in 2007 and 2009 according to each respective county's Central Appraisal District.
 - b. For housing, for example, a COG may wish to target funds toward LMI beneficiaries due to their likely lack of home insurance and other financial resources. An objective, verifiable means to do so might use the LMI percentage for each entity based on HUD Census Information from the Land Office Website and as provided in Needs Assessment training to the COG.
3. Allocations to any entity selected by the COG must:
 - a. For Non-housing, meet or exceed a floor of \$75,000 in order to assure project feasibility.
 - b. For housing, meet or exceed a floor of \$500,000 in order to assure project feasibility.
 - c. The maximum award, for both housing and non-housing, may not exceed the available regional allocation for Round 2.2.
4. The COG may choose to limit the types of projects entities receiving allocations may pursue by prioritizing projects. The COG should select whether it wishes to limit grantees to specific project priorities, or maintain all eligible activities.
5. **The COG may not transfer responsibility for developing a MOD to a unit of general local government.** The COG must make all final allocations. The Land Office will only accept one MOD for each region.
6. The State has determined that the citizens and communities of Texas can derive long-term, cost-effective benefits by introducing a comprehensive and holistic approach to selecting, planning, funding and implementing certain disaster recovery projects. Recognizing that the regional impact of the storms may lead to identification of forward-thinking recovery strategies and activities affecting multiple entities, the Land Office encourages the COG to make direct allocations to specific regional projects. An example includes regionalized drainage programs benefiting multiple jurisdictions. Projects identified as "Project Specific Distributions" must be of significant scope beyond what may be achieved regionally through the distribution formula. There must be documented regional agreement of the need and willingness to accept lesser local formulaic allocations in order to address regional need. The Land Office requires preliminary project information for any project proposed for a project-specific distribution.

7. The COGs must identify the process and factors used to determine which grantees will receive funds under the MOD. If separate factors were used to select grantees than the factors used to make the allocations, then they must be indicated. For example, the COG could choose the grantees with the ten highest FEMA public assistance totals for inclusion with the MOD, or the grantees with the 15 highest LMI percentages.
8. The COG may serve as grantee/subrecipient for economic development and housing activities.

MOD Instructions

1. The COG must identify a principal contact person and include contact information.
2. The COG must list its total regional allocation amount as identified in Amendment 1. The percentage of funds allocated by the Round 2.2 MOD must equal 100% of the allocation available for the region, including housing, affordable rental, and non-housing dollars for Round 2 when added to 2.1 awards.
3. An Allocation Summary Worksheet is included for completion associated with the MOD Detail section. The dollar amounts listed in Tables 1 and 2 of this document must correspond with the amounts calculated in that worksheet.
4. The MOD Form and Detail Worksheet require that the regional allocation be maintained for non-housing and housing considering Round 2.1 awards and including affordable rental, DREF commitments, Texas Rapid Housing Recovery Pilot Program, Subsidized Housing Rebuilding Program and Homeowner Opportunity Program (HOP) uses. The State will allocate DREF funds made available for the HOP according to prorated awards established by the COGs and applicant housing programs.
5. Include information on fair housing, long-term planning and recovery, and the needs assessment.
6. Meet all other requirements discussed in this regional MOD section.

Additional Requirements

Low to Moderate Income Requirements

As a reminder, Amendment 1 states that all allocations made by the regional COG MODs will be conditional until the State of Texas reaches the 55% Low to Moderate Income (LMI) threshold for the entire allocation. While each COG is not necessarily required to independently meet the threshold for its respective allocation, if the requirement of \$1,712,410,071 total for LMI activities has not been met statewide, the Land Office will require the COGs not meeting the 55% LMI threshold in their respective regional allocations to amend their MODs to ensure the requirement is achieved statewide.

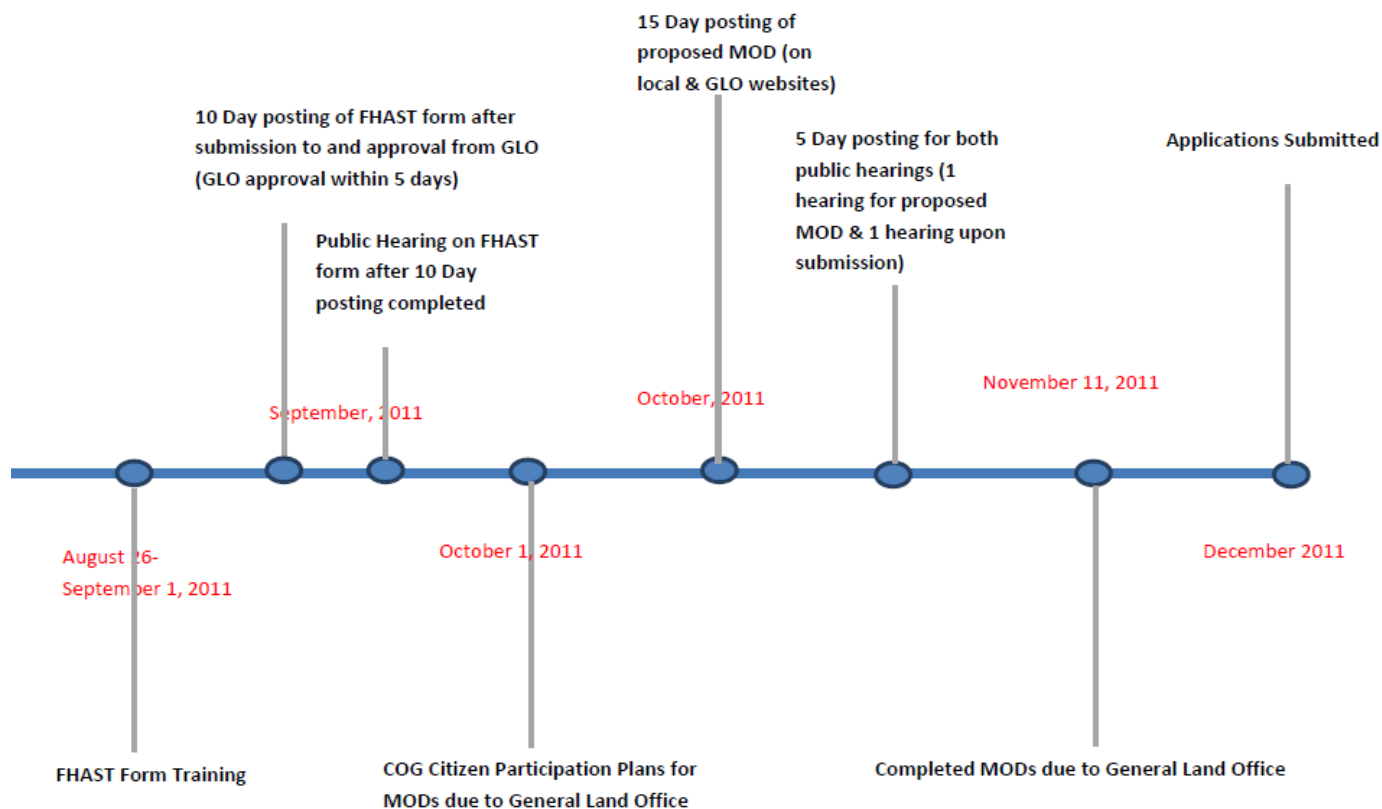
Delivery Address

The Land office will accept on-site delivery, electronic submission, or U.S. Postal Service First Class mail. Mail should be submitted to:

Gary Smith, Project Facilitator
Disaster Recovery Program
301 Congress Avenue, Suite 600
Austin, Texas 78701

Submissions of documents may be made electronically via Adobe Portable Document File (*.pdf) format. The Land Office requests that electronic submission of any spreadsheets be in a format readable by Microsoft Excel with all formulas intact. In addition, the Land Office requests electronic submission of word-processing documents be in a format readable by Microsoft Word. The electronic submission may utilize a CD-ROM submitted with the hard copy, or be sent separately via email to Gary L. Smith at gsmith@hntb.com

Figure 1: Round 2.2 MOD & Application Submittal Timeline



Approval and Signatory Authority

The completed MOD Form must be signed by an authorized signatory. The COG must also submit a signed resolution adopted by the COG Board authorizing submittal of the completed MOD Form and Worksheets. If the COG resolution will be submitted after the MOD deadline, the State will accept the preliminary MOD for review, and a conditional approval may be given pending submittal of the resolution.